

The Reflector

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Examiner rules in favor of landowner

Was it a boundary line adjustment, or the actual creation of new lots?

New lots is the decision by Clark County land use hearings examiner Larry Epstein.

The decision give Richard and Susan Clack two lots, approximately 3 acres each, at 19617 NE 58th St.

The Clacks submitted an application last August to the county's planning director, asking for a determination that their property consisted of two legal lots of record. The planning director, however, concluded the

Clacks had only one legal lot.

The Clacks pursued the matter, appealing it to the hearings examiner.

In 1963, Carl and Viola Zimmerman purchased Lots 63 and 64. The Zimmermans then sold the west portion of these lots to Jack and June Marks in 1967.

Clark County attorney Chris Horne argued before the examiner that the property description in a 1967 real estate contract constituted a boundary line adjustment between the two lots. Therefore, the Clacks had only

one legal lot.

Mark Erikson, the Clack's attorney, asserted that the 1967 sale of the west portion of Lots 63 and 64 created three and possibly four lots. The seller's intent was not simply to make a boundary line adjustment.

The hearings examiner concurred with Erikson's argument.

"The examiner finds that the recording of the real estate contract legally divided these two lots into four new lots," the examiner wrote. "The plain language in the 1967 real estate contract describes the property

transferred as two separate lots, i.e. 'Lots 63 & 64 Oconto...'"

Erikson asserted that the original decision by the planning director was an attempt to limit, as required under Growth Management, the number of lots that can develop in the county.

"The planning department wanted to say there was one lot, not two," Erikson said. "It's very significant because there's thousands of cases where this is true in Clark County. And there would be thousands more lots than the county is counting" under Growth Management.

Erikson

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